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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 002459

SIPDIS

STATE FOR EAP/MLS, NSC FOR WALTON

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TAGS: PREL PGOV TH

SUBJECT: THAILAND: CHARTER CHANGE ONE STEP CLOSER TO REALITY

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Classified By: Charge a.i. James F. Entwistle, REASON 1.4 (B) AND (D)

**¶11. (U) Summary:** On September 24, the joint parliament whips resolved to draft legislation to amend six articles of the 2007 Constitution. The whips will meet again on October 1 to determine the modalities of presenting and approving the proposed amendments, which touch on how MPs and Senators are elected, penalties for election fraud, procedures for parliamentary review of international agreements, and the ability for MPs to engage executive branch officials and hold certain dual positions within government. While the main political players already appear to have reached a consensus on inclusion of these six articles, disputes remain on who should draft the revised language, whether the amendments should be approved in a single package, and whether they should be put to a national referendum (an option overwhelmingly supported by Thais, according to several opinion polls).

**¶12. (C) Comment:** Players of many stripes across Thailand's political landscape support moving forward with these constitutional changes, albeit at differing speeds. The Democrats, as well as coalition partner Phumjai Thai, have strong incentives to draw the process out as long as possible, allowing the ruling coalition to fortify its position ahead of future elections. The opposition pro-Thaksin Puea Thai party would benefit the most from quick passage of the amendments, no referendum, and dissolution of parliament/new elections. End summary and comment.

CHANGES - TURN AND FACE THE STRAIN

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**¶13. (U)** The whips from the ruling coalition, the parliamentary opposition, and the Senate agreed on amending six articles in the 2007 constitution on September 24; they publicly resolved to task the Reconciliation Committee for Political Reform and Constitutional Amendments with drafting legislation accordingly. However, House Speaker Chai Chitchob -- father of de facto Phumjai Thai leader Newin Chitchob -- commented September 25 that the Reconciliation Committee's mandate had expired and therefore could not draft the legislation.

**¶14. (SBU)** Legal status aside, the committee had planned to convene again on October 1 to negotiate the format of the amendments. It appears that the joint parliament whips will

meet to decide what body will draft the legislation; the options include the parliament, a Constitutional Drafting Assembly, or a new body. The whips will also decide if the amendments will be presented in the form of a single bill without a public referendum, as Puea Thai prefers, or as six separate bills followed by a referendum, reportedly the Democrat Party's position. Phumjai Thai representatives, in contrast, reiterated the party's support for immediately amending only the sections dealing with the election of MPs and Senators and the review of international agreements, suggesting the remaining sections could be examined later. Prime Minister Abhisit reiterated in his September 27 Sunday talk show that the six proposed amendments must pass via public referendum, regardless of the body that drafts the legislation.

¶5. (C) The proposed amendments (see paragraph 9) mirror those proposed by the Reconciliation Committee in July 2009. Senator Direk Thungfang, chairman of the Reconciliation Committee for Political Reform and Constitutional Amendments told us September 23 that the six proposed amendments enjoyed broad support on his committee and reflected the judgment of a representative cross-section of the political spectrum. He said the amendments addressed the major flaws in the 2007 Constitution and would help lay the foundation for a more democratic constitution. Senator Lertrat Ratanaravich, head of the constitutional amendment subcommittee and drafter of the July proposals, told us Sept. 24 that he favored the public referendum option.

¶6. (SBU) The Thai public clearly wants to have a say in whatever changes are made. A slim majority (52.6 percent) of respondents to the latest ABAC poll, taken September 26, approved of the charter amendments; 86.5 percent of

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respondents assented to a referendum prior to drafting of any legislation. Although the wording of the questions in Thai polls can skew results, such overwhelming public sentiment against leaving changes only to professional politicians was similarly captured in a recent, large-scale poll conducted by The Asia Foundation.

PM CAN'T STOP CHANGE, HE CAN ONLY HOPE TO CONTAIN IT

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¶7. (C) Senator Direk told us he took issue with the notion that any additional research or discussion was needed on the constitutional revision question, stressing that his committee had already exhaustively examined the issue. He noted that Abhisit had expressed some reservation about acting on his committee's work immediately; the senator told us he believed Abhisit's opposition stemmed from an interest in serving as PM as long as possible. If the amendments were incorporated immediately, he added, it would be politically difficult for the PM to delay elections much longer. Senator Direk claimed the PM was also hostage to the People's Alliance for Democracy (PAD), aka the "yellow-shirts," who wished to delay elections as long as possible in order to mitigate against the possibility that former PM-Thaksin's Puea Thai party might regain power.

¶8. (C) Senator Lertrat, not associated with any political party, took a less politically-charged view in suggesting to us that elections were a minimum of a year off, even with political will to move forward. The referendum law recently passed by the Thai Parliament had been sent to the Council of State for a mandatory 30 day review for compatibility with the Constitution. Once specific language was agreed upon, the notice in the Royal Gazette of a referendum required 90 days prior to a referendum being held; Lertrat suggested any referendum was roughly six months away. After that, the election law and other implementing legislation would need to be adjusted, leading to another delay before elections could be held.

PROPOSED CHANGES - NO SURPRISES HERE

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19. (SBU) The six amendments proposed by the joint parliament whips, as recommended by the Reconciliation Committee for Political Reform and Constitutional Amendments, address the following articles in the 2007 Constitution. Sen. Lertrat described the proposals as falling into two groups, one which "enhanced democratic representation," (elections of MPs and Senators, change in punishment for electoral fraud) and the other which "improved efficiency in administration" (parliamentary review of international agreements, concurrent holding of positions, constituent advocacy).

- \* Articles 93-98 - return to a system of single candidate for a single constituency for election to the Lower House, as under the 1997 Constitution, rather than the multi-constituency system established in the current charter.
- \* Articles 111-121 - as with the 1997 charter, all senators to be elected, rather than the mixed system of appointed and elected senators in the current constitution.
- \* Article 190 - to specify the types of international agreements which require prior parliamentary approval.
- \* Article 237 - the proposed change would ban candidates found guilty of electoral fraud and punish party executives guilty of collusion, but the party itself would not be dissolved.
- \* Article 265 - to allow members of parliament (MPs) to concurrently hold positions within the government, as was allowed in the 1997 Constitution.
- \* Article 266 - to allow members of parliament and senators to participate in projects that address the people's grievances (through contact/engagement of executive branch officials).

ENTWISTLE